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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,857	03/28/2001	Jean Prevost	1912-0243P	1638

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EXAMINER

BAHTA, ABRAHAM

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 01/02/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,857

Applicant(s)

REVOST ET AL

Examiner

Abraham Bahta

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-- Th MAILING DATE of this communication app ars on the cover she t with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Prevost (USP

5,958,527).

Prevost teaches a synthetic grass playing surface comprising a backing, a large number of upstanding synthetic ribbons from the backing, and an infill layer of particulate material placed among the synthetic ribbons. The reference teaches the infill material may be resilient granules such as rubber, vermiculite, cork, foam plastic, black, cryogenically ground rubber or colored EPDM rubber. See col. 5, line 17- col. 6, line 39 and col. 7, lines 8-13. The granules materials of Prevost are known to have a characteristic of being non-marking when a ball comes in contact with the granules. The infill layer is made of a base course, a middle course and a top course. The base course is substantially of hard sand granules disposed immediately upon the top surface of the backing. The middle course is of intermixed hard sand granules and resilient rubber granules. The top course is substantially of resilient rubber granules. See col. 5, lines 35-48.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prevost '527.

As discussed above, Prevost teaches the present claimed invention except the length of ribbon which project above the infill layer; however, since the reference at col. 4, lines 45-52 teaches that depending on the sport or other expected use of the surface, the upper portion of the synthetic ribbon may extend upwardly from the top surface of the top course from 0.25 to 1.00 inches to give the appearance of grass blades and control the rolling of balls during play and that by also modifying the thickness and density of the grass ribbon blades extending through the top surface, the rolling characteristic of a ball in play can be modified, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the length of the ribbons depending on the ultimate use of the playing surface as suggested by Prevost.

Claim Rejections - 35 USC § 103

Claims 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prevost '527.

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As discussed above, Prevost teaches applicants claimed invention except fails to mention a second surface area that acts as a warning track; however, since Prevost teaches a synthetic grass playing surface comprising a base course, a middle course and a top course and that courses comprise different granules materials, for example the top course mainly comprise of rubber granular material and the middle course comprises of intermixed hard sand and rubber granules and the base course comprises mainly of sand granules which obviously have different tangible properties because of their characteristics, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to arrange the different courses or layers in such a way that when a player steps on the playing surface, for example on the surface having sand particles, the player may be exposed to abrasion or spray of sand.

Regarding claim 10, the reference teaches the sand, rubber and have different thickness or size relative to one another. See col. 6, line 49-col. 7, line 18.

Regarding claim 11-15, selecting contrasting color and alternating color tones arranged in a checkered pattern is merely a matter of design choice which would have been obvious to the skilled artisan for aesthetic reasons.

Regarding, claim 17 forming the synthetic grass into sections and attaching the sections together in individual panels involves only routine skill in the art.

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Response to Applicant's Argument

The applicant contends that the prior art of record fails to teach or suggest each and every limitation of the combination of the elements of the claimed invention of claim 1, including the limitation(s) of "said infill layer including a non-marking particulate material which is distributed so as to prevent a ball from being marked when the same hits the synthetic grass playing surface". The applicant further, argues that the resilient material described in Prevost '527 do not have the inherent characteristic of being non-marking as Prevost does not recognize the ball marking problem associated with an infill layer having a top layer of resilient granules, such as rubber, vermiculite, cork, foam plastic and black or colored EPDM rubber. The Examiner disagrees. The applicant on page 5 of the specification states the non-making rubber particles may be EPDM rubber. The reference, teaches the granules may be synthetic plastic granules, crushed slag or any other hard granular material such as suitable resilient granules such as vermiculite, cork, foam plastic, black or colored EPDM rubber. The Examiner contends that the fact remains that Prevost '527 uses the same infill materials as applicant's claimed invention. Therefore, since the materials are the same Prevost '527 material would have the characteristic of being non-marking when a ball comes in contact with the granules. See col. 6, lines 21-39.

With respect to claims 9-17 the applicant argues that there is no suggestion in Prevost to divide a synthetic grass outfield surface in various zones or surface areas of different tangible properties by infilling each zone with a different infill composition. The Examiner contends that Prevost '27 teaches the synthetic grass playing surface comprises an infill material of a base

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course such as hard sand granules disposed immediately upon the top surface of the backing, a middle course of intermixed hard sand granules and resilient rubber granules and a top course of substantially exclusively of resilient rubber granules. It is the Examiner's position that the different courses, discussed above, have different tangible properties. The reference at col. 7, lines 23-25 suggests that the substantially pure rubber top course provides resilience where it is needed most. Prevost '523 at col. 7, lines 39-43 suggests that with respect to infills, there are significant disadvantages to allowing sand particles adjacent to the top surface as sand is perceived as more abrasive to the skin than the rubber particles. Given, the above suggestion, one of ordinary skill in the art would be motivated to arrange the different courses of layer in such a way that when a player steps on the playing surface, for example on the surface having sand particles, the player may be exposed to abrasion or spray of sand.

With regard to claim 10 the applicant contends that the claimed "first and second infill layer" are not superposed like the top, middle and base layer of Prevost '527 but rather located in different zones of the synthetic grass playing surface, when viewed from the above. The Examiner contends that the reference at col. 6, line 49-col. 7, line 18 teaches the sand and rubber have different thickness or size relative to one another. It would have been obvious to one of ordinary skill in the art at the time of the invention to select the desired thickness for the infills, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

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With respect to claims 11-12, the applicant argues that there is no suggestion in Prevost '527 to cover the distal ends of the synthetic ribbon with a layer of infill material. However, it is the Examiner's position that the reference at col. 6, lines 1-12 teaches the ends of the ribbons hide the infill rubber crumbs of the top course from view and hold the crumbs in place. Further, the reference at col. 6, lines 33-37 teaches the rubber crumbs may be black or colored EPDM rubber.

With respect to claim 14, the applicant contends that a combination of synthetic grass section of alternating color tones arranged in a checkered pattern unexpectedly provide a more natural aspect to the synthetic grass by simulating different grass mowing directions and that finding a way of improving the natural appearance of synthetic grass is well beyond mere design consideration and requires a great deal of ingenuity. It is the Examiner's position that selecting contrasting color and alternating color tones arranged in checkered pattern is merely a matter of design choice which would have been obvious to the skilled artisan for aesthetic reasons.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Abraham Bahta at telephone number (703) 308-4412. The Examiner can normally be reached Monday-Friday from 11:30 AM -8:00 PM (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor Deborah, Jones, can be reached on (703) 308-3822.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



A. Bahta

12/27/02



DEBORAH JONES
SUPERVISORY PATENT EXAMINER